

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7636

BILL NUMBER: HB 1738

NOTE PREPARED: Apr 14, 2003

BILL AMENDED: Apr 9, 2003

SUBJECT: Various Alcoholic Beverage and Tobacco Matters.

FIRST AUTHOR: Rep. Kuzman

FIRST SPONSOR: Sen. Merritt

BILL STATUS: As Passed - Senate

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill limits the deposit of an alcoholic beverage dealer or retailer permit with the Alcohol and Tobacco Commission to three years. It reduces the fee for a tobacco sales certificate from \$100 to \$50. The bill increases the supplemental caterer's permit fees and employee permit fees. The bill establishes a fee of \$10 for a duplicate or reissued permit. The bill requires tobacco retailers to have certificates to sell tobacco products. It authorizes the Alcohol and Tobacco Commission to issue and enforce certificates. The bill provides that fees collected shall be deposited in the enforcement and administration fund. It amends provisions concerning the sale and distribution of tobacco products. It provides that the prosecutor for the alcohol and tobacco commission has the powers pertaining to tobacco that the prosecutor has for alcohol offenses. The bill provides that failure to pay civil penalties for certain violations is a Class B infraction. It provides that a person who sells or distributes tobacco products without a certificate commits a class A infraction. The bill provides that selling tobacco products to minors at least 6 times within 6 months is a Class B infraction. It also repeals prohibition on certain tobacco billboard advertisements. The bill repeals a provision prohibiting the issuance of a season permit to a person who: (1) owns, manages, or controls a resort hotel; and (2) has violated an alcoholic beverage law. It makes a liquor wholesaler's permit effective for two years. The bill allows the holder of an excursion and landsite permit to provide alcoholic beverages to guest free of charge if the holder has the approval of the commission and certain requirements are satisfied. It also repeals a provision concerning advertising of tobacco products that is preempted by federal law.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) *Alcohol and Tobacco Commission (ATC):* This bill would require persons wishing to either sell tobacco at retail or through a vending machine to obtain a tobacco sales

certificate from the Alcohol and Tobacco Commission for each location where they desire to sell tobacco. Based on adjusted U.S. Census *1997 Economic Census* data, it is estimated that tobacco products are sold at approximately 14,000 locations statewide. This estimate includes stores, hotels, restaurants, and bars. It does not include vending machines placed in locations other than within these types of establishments.

Depending on the administrative actions taken by the ATC, the Commission may need to hire additional staff to enforce tobacco laws and to process and enforce tobacco retailer permits. The ATC estimates that it processes approximately 10,000 retailer and dealer permits and 50,000 employee permits each year. The provisions could also require the ATC to hire more excise offices. The Commission currently has 63 excise officers located in six district offices. This provision may also result in an increase in the number of violations cited, which would increase costs associated with court appearances, depositions, and report drafting. The ATC currently has one part-time prosecutor to process violations and appeals related to alcoholic beverages. Funding for additional staff could be provided from the issuance of Tobacco Sales Certificates (see Explanation of State Revenues, below).

Additionally, the bill allows the Commission to adopt rules related to the pricing of alcoholic beverages sold through excursion and adjacent landsite permits (riverboat licensees). The ATC could absorb any costs associated with the promulgation of these rules.

Explanation of State Revenues: (Revised) *Tobacco Sales Certificates:* Retailers that sell tobacco products would be required to pay an annual fee of \$50 for the tobacco sales certificate. If 14,000 tobacco retailers apply for a permit, it is estimated that the fee revenue would generate approximately \$700,000 each year. Permit fee revenue would be deposited in the Alcohol and Tobacco Commission's Enforcement and Administration Fund.

Supplemental Catering Permits: The bill increase the fee charged for a supplemental caterer's permit from \$5 per event to \$150 per year. The impact of this change is unknown. Revenue from a supplemental caterer's permit is deposited in the ATC's Excise Fund. One-third of the money in the Excise Fund is deposited in the state General Fund.

Duplication Fee: The bill establishes a \$10 for the duplication or reinsurance of any type of ATC permit. The provision is expected to generate approximately \$40,000 each year. Revenue from the duplication fee would be deposited into the ATC's Enforcement and Administration Fund.

Employee Permits: The bill increase the biennial fee charged from an ATC employee permit from \$20 to \$30. The increase is expected to generate approximately \$500,000 each year. Employee permit fee revenue is deposited in the ATC's Excise Police Retirement Fund and the ATC Enforcement and Administration Fund.

Liquor Wholesaler Permits: The bill changes the duration of liquor wholesaler permit from one to two years. (Wine and beer wholesaler permits are currently valid for two years). An estimated ten liquor wholesalers will be affected by this proposal. The fee for a liquor wholesaler permit is \$2,000. This would reduce permit fees approximately \$20,000 over the biennium. Permit fee revenue is deposited in the state General Fund.

Youth Tobacco Education and Enforcement Fund: The provisions in the bill could impact the civil penalties received in the Youth Tobacco Education and Enforcement Fund. Under current law, persons cited for distributing tobacco products to minors under 18 are subject to a tiered system of civil penalties depending on the frequency and number of violations. This bill removes the list of fines and simply makes the offense of distributing tobacco products to minors a Class C infraction. The maximum fine for a Class C infraction

is \$500. A person that violates this provision more than six times during a six month period commits a Class B infraction. The maximum fine for a Class B infraction is \$1,000. All fine revenue would continue to be deposited in the Youth Tobacco and Education Fund.

Penalty Provision: A person who sells tobacco without a tobacco products retailer permit commits a Class A infraction. A person who fails to pay a civil penalty issued by the Commission commits a Class B infraction. If additional court cases occur, revenue to the Youth Tobacco Education and Enforcement Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class A infraction is \$10,000. The maximum judgement for a Class B infraction is \$1,000. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Supplemental Catering Permits:* The bill changes the fee charged for a supplemental caterer's permit from \$5 per event to \$150 per year. The impact of this provision is unknown. Revenue from a supplemental caterer's permit is deposited in the ATC's Excise Fund. Two-thirds of the money in the Excise Fund is deposited in the General Funds of cities, towns and counties.

Penalty Provision: If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Alcohol and Tobacco Commission.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Mary DePrez, Chairperson, Alcohol and Tobacco Commission, 232-2463; U.S. Census Bureau, 1997 *Economic Census*.

Fiscal Analyst: John Parkey, 317-232-9854